

APPEAL NO. 021397
FILED JULY 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 15, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) "sustained a compensable injury to her left shoulder that does not extend to include her cervical or thoracic spine on _____," and that she had disability from December 4, 2001, through the date of the hearing. In her appeal, the claimant contends that the hearing officer erred in resolving an extent-of-injury issue when no such issue was before him. In its response, the respondent (carrier) generally urges affirmance. The carrier did not appeal the hearing officer's determination that the claimant had disability from December 4, 2001, through the date of the hearing and that determination has become final pursuant to Section 410.169.

DECISION

Affirmed as reformed.

Although the carrier generally urges affirmance in its response, it acknowledged that an extent-of-injury issue was not before the hearing officer. To the contrary, the disputed issues reported out of the benefit review conference were injury and disability. The Appeals Panel has encouraged hearing officers to indicate the nature of the injury when determining whether an injury existed; however, we have also stated that it is inappropriate for a hearing officer to make a final determination on an issue of extent of injury when that issue is not before the hearing officer. Texas Workers' Compensation Commission Appeal No. 010672, decided April 26, 2001. The hearing officer's determination that the claimant's compensable injury did not extend to the cervical or thoracic spine was beyond the scope of the issue before him. Accordingly, we strike the language stating that the compensable injury does not extend to the cervical or thoracic spine. Finding of Fact No. 2, Conclusion of Law No. 3, and the decision are reformed to reflect that the claimant sustained a compensable left shoulder injury on _____. The issue of whether the compensable injury extends to the cervical or thoracic spine has not been resolved and, if the parties so desire, a resolution of that issue may be pursued in a future dispute resolution proceeding.

As so reformed, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
COMMODORE 1
AUSTIN, TEXAS 78701.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge